



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JUL 26 2007

*ICS
200 000 902*

FEDERAL EXPRESS

Mr. Don Loftis
Mr. Ron Johnson
Montclair Apartments Office
4126 Mountain Creek Road
Chattanooga, Tennessee 37415

SUBJ: Consent Agreement and Final Order
Docket No. TSCA-04-2007-2727(b)

Dear Mr. Loftis and Mr. Johnson:

Enclosed please find an executed copy of the ratified Consent Agreement and Final Order (CAFO) in the above referenced matter. The CAFO is effective as of the date of filing with the Regional Hearing Clerk. Please make note of the provisions in the CAFO, paragraphs 13 and 14, with respect to payment of the assessed penalty which must begin no later than 30 days from the effective date of the CAFO.

Also enclosed, please find a copy of the "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts you on notice of the potential duty to disclose to the Securities and Exchange Commission (SEC) any environmental enforcement actions taken by the U.S. Environmental Protection Agency (EPA). If you have any questions with regard to the SEC's environmental disclosure requirements, you may refer to the contact phone number at the bottom of the Notice.

If you have any questions, please contact Ms. Andrea Lippitt of the EPA Region 4 staff at (404) 562-8983.

Sincerely,

Joanne Benante
Chief
Pesticides and Toxic
Substances Branch

Enclosures

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)

Montclair Apartments)

Respondent)
_____)

Docket Number: TSCA-04-2007-2727(b)

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CONSENT AGREEMENT FINAL ORDER

I. Nature of the Action

1. This is a civil penalty proceeding pursuant to Section 16(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2615(a), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), codified at 40 C.F.R. Part 22. Complainant is the Director of the Air, Pesticides and Toxics Management Division, Region 4, United States Environmental Protection Agency (EPA). Respondent is Montclair Apartments (hereinafter, "Respondent").

2. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.

II. Preliminary Statements

3. The Administrator of EPA promulgated regulations at 40 C.F.R. Part 745, Subpart F under the authority of Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4852d. Pursuant to 42 U.S.C. § 4852d(b)(5), a violation of any rule in 40 C.F.R. Part 745, is a prohibited act under Section 409 of TSCA, 15 U.S.C. § 2689. Any person who violates Section 409 of TSCA may be assessed a penalty of up to \$10,000 for each such violation, in accordance with Section 16(a) of TSCA, 15 U.S.C. § 2615(a) and Section 1018. For a violation occurring after January 31, 1997, a penalty of up to \$11,000 may be assessed pursuant to 40 C.F.R. Part 19, and in accordance with 40 C.F.R. § 745.118(f).

4. The authority to take action under Section 16(a) of TSCA, 15 U.S.C. § 2615(a), is vested in the Administrator of EPA. The Administrator of EPA has delegated this authority under TSCA to EPA Region 4 by EPA Delegation 12-2-A, dated May 11, 1994.

III. Specific Allegations

5. Respondent is a lessor, as defined at 40 C.F.R. § 745.103, of residential housing identified as Montclair Apartments, located in Chattanooga, Tennessee 37415. This residential housing is "target housing," as defined at 40 C.F.R. § 745.103.

6. Based on information obtained by EPA on or about May 24, 2006, relating to Respondent's contracts to lease its target housing described above, EPA alleges that Respondent violated Section 409 of TSCA and the following regulations:

- Pursuant to 40 C.F.R. § 745.107(a)(1), a lessor shall provide the lessee an EPA-approved lead hazard information pamphlet before the lessee is obligated under any contract to lease target housing.

Respondent failed to provide lessees an EPA-approved pamphlet.

- Pursuant to 40 C.F.R. § 745.113(b)(1), each contract to lease target housing shall include, as an attachment to or within the contract, a "Lead Warning Statement".

Respondent failed to include the required "Lead Warning Statement".

- Pursuant to 40 C.F.R. § 745.113(b)(2), each contract to lease target housing shall include, as an attachment to or within the contract, a statement disclosing the presence of known lead-based paint and/or lead-based paint hazards in the target housing being leased or a statement indicating no knowledge of the presence of lead-based paint and/or lead-based paint hazards.

Respondent failed to include an appropriate statement.

- Pursuant to 40 C.F.R. § 745.113(b)(3), each contract to lease target housing shall include, as an attachment to or within the contract, a list of any records or reports available to the lessor pertaining to lead-based paint and/or lead-based paint hazards in the housing that have been provided to the lessee, or an indication that no such records or reports are available.

Respondent failed to include the appropriate information.

IV. Consent Agreement

7. For the purposes of this CAFO, Respondent admits the jurisdictional allegations set out above but neither admits nor denies the factual allegations set out above.

8. Respondent waives its right to a hearing on the allegations contained herein.

9. Respondent consents to the assessment of and agrees to pay the civil penalty as set forth in this CAFO.

10. Respondent certifies that as of the date of its execution of this CAFO, it is in compliance with the requirements of 40 C.F.R. Part 745, Subpart F.

11. Compliance with this CAFO shall resolve the allegations of violations contained herein. This CAFO shall not otherwise affect any liability of Respondent to the United States. Other than as expressed herein, neither EPA nor Complainant waives any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or pursue criminal enforcement.

12. Complainant and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of 40 C.F.R. Part 745, Subpart F.

V. Final Order

13. Respondent is assessed a civil penalty of *Three Thousand, Six Hundred, Ten Dollars and sixty cents (\$3610.60)* plus interest, which is to be paid over a one year period in twelve (12) monthly payments of *Three Hundred, Seven Dollars and Forty Four Cents (\$307.44)* totaling *Three Thousand, Six Hundred, Eighty Nine Dollars and Twenty Eight Cents (\$3689.28)*. These monthly payments shall begin within thirty (30) calendar days of the effective date of this CAFO, and subsequent payments are due in thirty day (30) intervals over one year. Respondent shall make payments in accordance with the following schedule:

<u>Payment Due Date</u>	<u>Payment Due</u>
Within 30 days of filing CAFO	\$307.44
Within 60 days of filing CAFO	\$307.44
Within 90 days of filing CAFO	\$307.44
Within 120 days of filing CAFO	\$307.44
Within 150 days of filing CAFO	\$307.44
Within 180 days of filing CAFO	\$307.44
Within 210 days of filing CAFO	\$307.44
Within 240 days of filing CAFO	\$307.44
Within 270 days of filing CAFO	\$307.44
Within 300 days of filing CAFO	\$307.44
Within 330 days of filing CAFO	\$307.44
Within 360 days of filing CAFO	\$307.44

14. Respondent shall pay the penalty by forwarding a cashier's or certified check, payable to "Treasurer, United States of America," to one of the following addresses:

For payment submittal by U.S. Postal Service:

U.S. Environmental Protection Agency
Box 371099M
Pittsburgh, PA 15251

For payment submittal by any overnight mail service (Fed Ex, UPS, DHL, etc.):

Mellon Client Service Center
ATTN: Shift Supervisor, Room 0690
Lockbox 371099M
500 Ross Street
Pittsburgh, PA 15262-0001

The check shall reference on its face the name of the Respondent and Docket Number.

15. At the time of payment, Respondent shall send a separate copy of the check, and a written statement that payment has been made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303

Andrea Lippitt
Children's Health, Lead and Asbestos
Management Section
U.S. EPA Region 4
SNAFC - 12th Floor
61 Forsyth Street, S.W.
Atlanta, GA 30303

Saundi Wilson
Office of Environmental Accountability
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303

16. For the purposes of state and federal income taxation, Respondent shall not be entitled, and agrees not to attempt, to claim a deduction for any civil penalty payment made pursuant to this CAFO. Any attempt by Respondent to deduct any such payments shall constitute a violation of this CAFO.

17. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the cost of processing and handling a delinquent claim. Interest will therefore begin to accrue on the civil penalty from the date of entry of this CAFO, if the penalty is not paid by the date required. A charge will also be assessed to cover the administrative costs, both direct and indirect, of overdue debts. In addition, a late payment penalty charge shall be applied on any principle amount not paid within 90 days of the due date.

18. Complainant and Respondent shall bear their own costs and attorney fees in this matter.

19. This CAFO shall be binding upon the Respondent, its successors and assigns.

20. The following individual represents EPA in this matter and is authorized to receive service for EPA in this proceeding:

Andrea Lippitt
Children's Health, Lead and Asbestos
Management Section
U.S. EPA Region 4
SNAFC – 12th Floor
61 Forsyth Street, S.W.
Atlanta, GA 30303
(404) 562-8983

21. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally bind that party to it.

VI. Effective Date

22. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

Respondent: Montclair Apartments

Docket Number: TSCA-04-2007-2727(b)

By:

Don Loftis
Mr. Don Loftis, Montclair Apartments

Date:

July 6, 2007

Name:

Don Loftis

(Typed or Printed)

Title:

Partner

(Typed or Printed)

By:

Ron Johnson
Mr. Ron Johnson, Montclair Apartments

Date:

July 6, 2007

Name:

Ron Johnson

(Typed or Printed)

Title:

partner

(Typed or Printed)

COMPLAINANT: UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

By:

Carol G. Kamber for
Beverly H. Banister
Director
Air, Pesticides and Toxics
Management Division
Region 4

Date:

7/13/07

APPROVED AND SO ORDERED this 24th day of July, 2007

By:

Susan B. Schub
Susan B. Schub
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that on the date set out below, I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the foregoing Consent Agreement and Final Order, in the Matter of: Montclair Apartments, Docket Number: TSCA-04-2007-2727(b), to the addressees listed below.

Andrea Lippitt
Children's Health, Lead and
Asbestos Management Section
U.S. EPA Region 4
61 Forsyth Street, S.W.
Atlanta, GA 30303

(via EPA's internal mail)

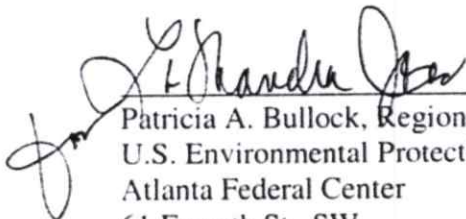
Nancy Tommelleo
Office of Environmental Accountability
U.S. EPA, Region 4
61 Forsyth St., SW
Atlanta, GA 30303

(via EPA's internal mail)

Mr. Don Loftis
Mr. Ron Johnson
Montclair Apartments Office
4126 Mountain Creek Road
Chattanooga, Tennessee 37415

(via Certified Mail, Return Receipt Requested)

Date: 7/26/07



Patricia A. Bullock, Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth St., SW
Atlanta, GA 30303
(404) 562-9511

NOTICE OF SECURITIES AND EXCHANGE COMMISSION REGISTRANTS' DUTY TO DISCLOSE ENVIRONMENTAL LEGAL PROCEEDINGS

Securities and Exchange Commission regulations require companies registered with the SEC (e.g., publicly traded companies) to disclose, on at least a quarterly basis, the existence of certain administrative or judicial proceedings taken against them arising under Federal, State or local provisions that have the primary purpose of protecting the environment. Instruction 5 to Item 103 of the SEC's Regulation S-K (17 CFR 229.103) requires disclosure of these environmental legal proceedings. For those SEC registrants that use the SEC's "small business issuer" reporting system, Instructions 1-4 to Item 103 of the SEC's Regulation S-B (17 CFR 228.103) requires disclosure of these environmental legal proceedings.

If you are an SEC registrant, you have a duty to disclose the existence of pending or known to be contemplated environmental legal proceedings that meet any of the following criteria (17 CFR 229.103(5)(A)-(C)):

- A. Such proceeding is material to the business or financial condition of the registrant;
- B. Such proceeding involves primarily a claim for damages, or involves potential monetary sanctions, capital expenditures, deferred charges or charges to income and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis; or
- C. A governmental authority is a party to such proceeding and such proceeding involves potential monetary sanctions, unless the registrant reasonably believes that such proceeding will result in no monetary sanctions, or in monetary sanctions, exclusive of interest and costs, of less than \$100,000; provided, however, that such proceedings which are similar in nature may be grouped and described generically.

Specific information regarding the environmental legal proceedings that must be disclosed is set forth in Item 103 of Regulation S-K or, for registrants using the "small business issuer" reporting system, Item 103(a)-(b) of Regulation S-B. If disclosure is required, it must briefly describe the proceeding, "including the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought."

You have been identified as a party to an environmental legal proceeding to which the United States government is, or was, a party. If you are an SEC registrant, this environmental legal proceeding may trigger, or may already have triggered, the disclosure obligation under the SEC regulations described above.

This notice is being provided to inform you of SEC registrants' duty to disclose any relevant environmental legal proceedings to the SEC. This notice does not create, modify or interpret any existing legal obligations, it is not intended to be an exhaustive description of the legally applicable requirements and it is not a substitute for regulations published in the Code of Federal Regulations. This notice has been issued to you for information purposes only. No determination of the applicability of this reporting requirement to your company has been made by any governmental entity. You should seek competent counsel in determining the applicability of these and other SEC requirements to the environmental legal proceeding at issue, as well as any other proceedings known to be contemplated by governmental authorities.

If you have any questions about the SEC's environmental disclosure requirements, please contact the Office of Chief Counsel in the SEC's Division of Corporation Finance. The phone number is (202) 942-2900.

EPA ACCOUNTS RECEIVABLE CONTROL NUMBER FORM

TO BE COMPLETED BY THE ORIGINATING OFFICE:

(Attach a copy of the final order and transmittal letter to Defendant/Respondent)

This form was originated by: Saund, Wilson on 7/26/07
(Name) (Date)

in the DEA, OATGL at (404) 562-9504
(Office) (Telephone Number)

☐ Non-SF Judicial Order/Consent Decree
USAO COLLECTS

☒ Administrative Order/Consent Agreement
FMO COLLECTS PAYMENT

☐ SF Judicial Order/Consent Decree
DOJ COLLECTS

☐ Oversight Billing - Cost Package required:
Sent with bill

☐ Other Receivable

☐ Not sent with bill

☐ This is an original debt

☐ Oversight Billing - Cost Package not required

☐ This is a modification

PAYEE: Montclair Apartments
(Name of person and/or Company/Municipality making the payment)

The Total Dollar Amount of the Receivable: \$ 3610.66 (3689.28 incl interest)
(If installments, attach schedule of amounts and respective due dates. See Other side of this form.)

The Case Docket Number: TSCA 04 8007 2727

The Site Specific Superfund Account Number: _____

The Designated Regional/Headquarters Program Office: _____

TO BE COMPLETED BY LOCAL FINANCIAL MANAGEMENT OFFICE:

The IFMS Accounts Receivable Control Number is: _____ Date _____

If you have any questions, please call: _____ of the Financial Management Section at: _____

DISTRIBUTION:

A. **JUDICIAL ORDERS:** Copies of this form with an attached copy of the front page of the **FINAL JUDICIAL ORDER** should be mailed to:

1. Debt Tracking Officer
Environmental Enforcement Section
Department of Justice RM 1647
P.O. Box 7611, Benjamin Franklin Station
Washington, D.C. 20044

2. Originating Office (EAD)
3. Designated Program Office

B. **ADMINISTRATIVE ORDERS:** Copies of this form with an attached copy of the front page of the Administrative Order should be to:

1. Originating Office
2. Regional Hearing Clerk

3. Designated Program Office
4. Regional Counsel (EAD)

ADMINISTRATIVE ACTION DATA SHEET

(To Be Submitted to OEA When:

(1) a Complaint is Filed;

(2) When a CAFO(b) Filed, Along with a Case Conclusion Data Sheet

(3) a Non-Penalty Order is Issued; Along with a Case Conclusion Data Sheet)

1. Court Docket/Regional Hearing Clerk Docket No. TSCA-04-2007-2727(b)
2. Case Name Montclair Apartments

EPA Lead Attorney _____ Phone No. _____
EPA Program Contact Andrea Lippitt Phone No. (4) 562-8983

Facility Information

Information for One Facility (If More Facilities, Attach Additional Pages.)

(Use Location of Site of Violation; **DO NOT** use a P.O. Box #.)

9. Facility Name Montclair Apartments
10. Street Address 4126 Mountain Creek County _____
City Chattanooga State TN Zip Code 37415
Primary 4-Digit SIC Code 5313 (b) Other 4-Digit SIC Codes _____
EPA FRS No. _____

Is This a Federal Facility? _____ Yes ☒ No
Is This Indian Land? _____ Yes ☒ No
If Yes, What Tribe? _____
Is This a Small Business? ☒ Yes _____ No
("A person, corporation, partnership, or other entity that employs 100 or fewer employees.")

Has an EJ GIS Analysis Been Completed? ☒ Yes _____ No
If No, Please See Serdar Ertep at 2-9683 Before Continuing

Is The Facility Located in a Potential EJ Area of Concern? ☒ Yes _____ No
If Yes: _____ Low Income ☒ Minority Population _____ Both _____ Other

Note: Question Numbers Correspond with the Case Conclusion Data Sheet Guidance Booklet, Dated August 2004.
If You Have Any Questions, Please Contact Teresa Shirley-Wright at 2-9647 or Priscilla Johnson at 2-9614.

7. Respondents/PRPs List:

[illegible]

Continue on Attached Page, if Necessary

8. Statute(s) and Section(s) Violated (NOT Authorizing Section Nor CFR):

TSCA, 101B; _____; _____

Authorizing Section for Administrative Actions: TSCA 16

If CERCLA, Is the Site on the NPL? ☐ Yes ☒ No

12. CFR Violation Citation(s):

40 CFR Part 745 Section 107(a)(1) 40 CFR Part _____ Section _____

40 CFR Part 745 Section 113(b)(13) 40 CFR Part _____ Section _____

Is this a MULTI-MEDIA action? ☐ Yes ☒ No

If Yes, check all that apply:

CAA:

- ☐ Mobile Source (Title II)
☐ Stationary Source (Other Than Title II)
☐ Prevention of Accidental Releases (112(r))

CERCLA:

- ☐ Hazardous Site Response (CERCLA Superfund
Other Than 103 and/or RCRA 3013 or 7003)

CWA:

- ☐ NPDES (Other Than 311 and 404)
☐ Oil Pollution (311)
☐ Wetlands (404)

EPCRA or EPCRA/CERCLA

- ☐ Community Right-to-Know (313)
☐ Release Notification/Emergency Preparedness
(Non-313 and/or CERCLA 103)

FIFRA:

- ☐ Pesticides

MPRSA:

- ☐ Ocean Dumping

RCRA:

- ☐ Hazardous Waste Mgmt (Subtitle C)
☐ Solid Waste Mgmt (Subtitle D)

SDWA:

- ☐ Public Water Supply (1414 et seq.)
☐ UIC (1421 et seq.)

TSCA:

- ☐ Asbestos Hazardous Emergency Response
Act (201)
☐ Lead Exposure Reduction (409)
☐ PCBs (6(e))
☐ Toxic Substances (Other Than Lead or PCBs)

UST:

- ☐ Underground Storage Tanks (Subtitle I)

Was The Agency Activity Taken in Response to Environmental Justice Concerns? ☐ Yes ☒ No

If Yes: ☐ Minority ☐ Low Income ☒ Both

PRIORITY INFORMATION

MOA Priority (Check All That Apply):

CAA Air Toxics:

- ☐ NSR/PSD Non-Coal-Fired Power Plant
- ☐ NSR/PSD Coal-Fired Power Plant

Wet Weather:

- ☐ CAFO (AFLOT)
- ☐ CSO (CSO)
- ☐ SSO (SS)
- ☐ Stormwater - MS4
- ☐ Stormwater - Industrial Non-Construction
- ☐ Stormwater - Industrial Construction

Petroleum Refining:

- ☐ Petroleum Refining

Tribal:

- ☐ Tribal

Mineral Processing:

- ☐ Phosphoric Acid
- ☐ Non-Phosphoric Acid
- ☐ Mining

Regional Priority (Check All That Apply):

- ☐ Wood Preserving Facilities
- ☐ Ready-Mix Concrete
- ☐ Hospitals
- ☐ Coastal & Inland Marinas
- ☐ Corrective Action Facilities
- ☐ Geographic Initiative
- ☐ Hazardous Waste Facilities
- ☐ Metal Galvanizers
- ☐ Mobile Bay Compliance Assurance Initiative
- ☐ Plastics & Synthetic Resin Manufacturers
- ☐ Textile Industry
- ☐ Other, Please Specify:

Date Complaint Filed: _____

Proposed Penalty Amount \$ 5158
(Should be Amount Prior to Reductions Using a
Penalty Policy.)

Is This An Amended Complaint: ☐ Yes ☒ No

AND/OR Proposed Cost
Recovery Amount \$ _____

Self Disclosure Information

Did Company Self-Disclose Violations? ☐ Yes ☒ No

Does Company Have Less Than 100 Employees? ☒ Yes ☐ No
(Note: If Yes, Treat As If Violations Were Disclosed Under EPA's Small Business Policy)

Date Violations Disclosed: ____/____/____

Has the Inspection Information Been Entered into ICIS? ☒ Yes ☐ No

If Yes, What is the ICIS Compliance Monitoring Activity Name (Exactly): TSCA 1018 Inspection - 200000902

What Type of Inspection was Conducted (Statute/Section)? TSCA 1018

Date of Inspection: 5-24-2006

Violation Types

CAA

- ☐ Asbestos Demolition/Renovation Work Practices Requirements
- ☐ Asbestos Requirement Violation
- ☐ Asbestos-In-Schools Violation
- ☐ Discharge, Emission, or Activity Without Required Permit
- ☐ Violation of Permit Requirement
- ☐ National Emission Standard for Hazardous Air Pollutant
- ☐ New Source Review
- ☐ Prevention of Significant Deterioration
- ☐ Risk Management Plan
- ☐ Stratospheric Ozone Protection Violation
- ☐ Tampering w/Emissions Control Device
- ☐ Violation of Reporting Requirements
- ☐ Violation of Requirement to Monitor/Maintain Records
- ☐ Other/Miscellaneous

FIFRA

- ☐ Container Requirements
- ☐ Exports Violation
- ☐ Imports Violation
- ☐ Failure to Notify
- ☐ Failure to Report Information As Required
- ☐ General Facility Requirements
- ☐ Good Laboratory Practices
- ☐ Packaging Requirements
- ☐ Labeling/Marking Requirements
- ☐ Microbial Violations
- ☐ Violation of Previously Issued AO
- ☐ Violation of Information Letter Response
- ☐ Violation of Storage Facility Requirements
- ☐ Violations of Reporting Requirements
- ☐ Violation of Requirement to Monitor/Maintain Records
- ☐ Other/Miscellaneous
- ☐ Worker Protection Standards

Wetlands

☐ Discharge Without or In Violation of a
404 Permit

☐ Other/Miscellaneous

TSCA

☐ Accreditation

☐ Asbestos Demolition/Renovation
Work Practices Requirements

☐ Asbestos Requirement Violation

☐ Asbestos-In-School Violation

☐ Closure & Post-Closure Requirements

☐ Container Requirements

☐ Discharge, Emission, or Activity
Without Required Permit

☐ Disposal Facility Requirements - Not
Otherwise Specified

☐ Imports Violation

☐ Exports Violation

☐ Failure to Notify

☐ Failure to Report Information As
Required

☐ Labeling/Marking Requirements

☐ Violation of PCB Rules

☒ Lead Paint Rule

☐ Pre-Manufacturing Notice Requirements

☐ Violation of Information Letter Request

☐ Violation of a Permit Requirement

☐ Violation of Reporting Requirements

☐ Violation of Requirement to Monitor/
Maintain Records

☐ Violation of Storage Facility
Requirements

☐ Other/Miscellaneous

☐ Worker Protection Standards

CASE CONCLUSION DATA SHEET

(To be Submitted to OEA When:

- (1) Judicial Consent Decrees/Orders are Entered by Court
- (2) Administrative Penalty Settlements are Filed, Along with an Administrative Action Data Sheet
- (3) Administrative Non-Penalty Orders are Issued, Along with an Administrative Action Data Sheet)

Note: Form will be returned if this section is incomplete:

Name of Person Completing Form: Andrea A Lippitt Date: 5-8-07
Signature of Program Office Supervisor or Designee: [Signature] Date: 8/15/07

A. Case and Facility Background

1. Court Docket/Regional Hearing Clerk Docket No. TSCA-04-2007-2727

2. Case Name Montclair Apartments

3. Settlement Action Type:

- ☐ (a) Consent Decree or Court Order Resolving a Civil Judicial Action
- ☒ (b) Administrative Penalty Order (with/without Injunctive Relief)
- ☐ (c) Superfund Administrative Cost Recovery Agreement
- ☐ (d) Federal Facility Compliance Agreement (NOT including RCRA Matters)
- ☐ (e) Field Citations
- ☐ (f) Administrative Compliance Orders
- ☐ (g) Notice of Determination (Self-Disclosure Cases)

4(a) EPA Lead Attorney _____ Phone No. _____

4(b) EPA Program Contact Andrea Lippitt Phone No. 289853

5. Was An Environmental Management System Requested? ☐ Yes ☒ No

6. Action Dates (Complete **EITHER** Administrative or Judicial):

Administrative:

Issued/Filed _____ Final Order _____

Judicial:

Complaint Filed _____

Settlement Lodged _____

Settlement Entered _____

Estimated Termination Date: _____

8. Statute(s) and Section(s) Violated (NOT Authorizing Section Nor CFR):

TSCA 11018; _____; _____; _____; _____

Authorizing Section for Administrative Actions: TSCA 116

9. Facility Name Montclair Apartments State TN

How Many Facilities Are Associated With This Action? 1

Are Any of These Facilities Located Outside Region IV? ☐ Yes ☒ No

ALTERNATIVE DISPUTE RESOLUTION

15. Was Alternative Dispute Resolution (ADR) Used in This Case?

☐ Yes

☒ No (Skip to Next Page.)

of Parties in Your Case? _____

Of Parties Taking Part in Mediation? _____

Which ADR Process or Processes Were Used? (Can Check More Than One)

☐ Facilitation

☐ Facilitated Negotiation

☐ Mediation for One Part of Case

☐ Mediation for Entire Case

☐ For Cost/Allocation/Penalties

☐ For Injunctive Relief

☐ Other

Who was Your Mediator? _____

How Did You Obtain Your Mediator? _____

Was This Mediator Effective?

☐ Yes. How So? _____

☐ No. Why Not? _____

Was ADR Useful in Fostering Clearer and More Effective Communication Between
The Parties? ☐ Yes ☐ No

Did ADR Help Resolve the Conflict it was Selected For? ☐ Yes ☐ No

If Not, Why Not? _____

Did ADR Help Resolve Conflicts That Were Apart From the Conflict it was Selected For?

☐ Yes. Why? _____

☐ No

Were you Satisfied with the ADR Process You Went Through in Your Case?

☐ Yes Why? _____

☐ No Why Not? _____

Would You Consider Using ADR Again? ☐ Yes ☐ No

If Yes, What Would You Anticipate Using it For? _____

If No, Why Not? _____

How Could the Usefulness of ADR Have Been Improved in Your Case? _____

How Could EPA's Use of ADR be Improved in General? _____

How Could EPA Better Assist You in Obtaining and Effectively Using ADR Services? _____

B. Penalty Information (If there is no penalty, enter 0 and proceed to Page 6.)

11. For Multi-Media Actions, Federal Amounts by Statute:

Statute	Amount
_____	\$ <u>3610.60</u>
_____	\$ _____
_____	\$ _____

12(a). Total Assessed Penalty

\$ 3610.60

12(b). (If Shared) Federal Share

\$ _____

13. (If Shared) State or Local Share

\$ _____

C. Cost Recovery

14. Amount of Cost Recovery Awarded:

\$ _____ EPA Share

\$ _____ State and/or Local Government Share

\$ _____ Other

Was this an overfile action? ___ Yes ___ ☒ No

(Overfiling occurs when (1) a state/local delegated or approved program has taken no action or an inadequate action to address a violation at a facility; AND (2) EPA takes an enforcement action against the same facility for the same violation; AND (3) the state has not joined with EPA in the EPA action nor asked EPA to bring the action.)

2006 PRIORITY INFORMATION

MOA Priority (Check All That Apply):

CAA Air Toxics:

- ☐ Air Toxics
- ☐ NSR/PSD Non-Coal-Fired Power Plant
- ☐ NSR/PSD Coal-Fired Power Plant

Wet Weather:

- ☐ CAFO (AFLOT)
- ☐ CSO (CSO)
- ☐ SSO (SS)
- ☐ Stormwater - MS4
- ☐ Stormwater - Industrial Non-Construction
- ☐ Stormwater - Industrial Construction

Petroleum Refining:

- ☐ Petroleum Refining

Tribal:

- ☐ Tribal

Mineral Processing:

- ☐ Phosphoric Acid
- ☐ Non-Phosphoric Acid
- ☐ Mining

Financial Assurance:

- ☐ Financial Assurance

Regional Priority (Check All That Apply):

- ☐ Wood Preserving Facilities
- ☐ Ready-Mix Concrete
- ☐ Hospitals
- ☐ Coastal & Inland Marinas
- ☐ Corrective Action Facilities
- ☐ Geographic Initiative
- ☐ Hazardous Waste Facilities
- ☐ Metal Galvanizers
- ☐ Mobile Bay Compliance Assurance Initiative
- ☐ Plastics & Synthetic Resin Manufacturers
- ☐ Textile Industry
- ☐ Other, Please Specify:

C. Supplemental Environmental Project (SEP) Information

15. Is Environmental Justice Addressed by SEP? ☐ Yes ☒ No

16. SEP Description _____

17. Categories of SEPs (Check all appropriate categories. If no, proceed to #25)

☐ (a) Public Health

☐ (b) Pollution Prevention (Complete Question #19)

☐ (1) Equipment/Technology Modifications

☐ (2) Process/Procedure Modifications

☐ (3) Product Reformulation/Redesign

☐ (4) Raw Material Substitution

☐ (5) Improved Housekeeping/O&M/Training/Inventory Control

☐ (6) In-Process Recycling

☐ (7) Energy Efficiency/Conservation

☐ (c) Pollution Reduction (Complete Question #19)

☐ (d) Environmental Restoration and Protection

☐ (e) Assessments and Audits

☐ (f) Environmental Compliance Promotion

☐ (g) Emergency Planning and Preparedness

☐ (h) Other Program Specific SEP (Specify) _____

18. Cost of SEP. Cost Calculated by the PROJECT Model is Preferred. \$ _____

19. Quantitative Environmental Pollutants and/or Chemicals and/or Waste Streams, Amount of Reductions/Eliminations (e.g. Emissions/Discharges)

Pollutants/Chemical Waste
Stream

Annual Amount

Units**

Potentially Impacted Media***

CHECK ONE:

☐ Reduced

☐ Eliminated

☐ Treated

**Acceptable Units:

Pounds Per Year

People

Acres

Linear Feet (Small Stream)

Linear Feet (Medium Stream)

Linear Feet (Large Stream)

Gallons Per Year

Pounds

***Acceptable Impacted Medias:

Air

Land

Water (Navigable/Surface)

Water (Wetlands)

Water (Wastewater to POTW)

Water (Underground Source of Drinking Water)

Water (Ground)

Animals/Plants/Humans

Buildings/Houses/Schools

FOR SELF-DISCLOSURE CASES ONLY
(COMPLETE ONLY IF FACILITY SELF-DISCLOSED VIOLATIONS)

F. Self-Disclosure Information

Did Company Self-Disclose Violations? ☐ Yes ☒ No

Date of Disclosure: _____

Was the Disclosure Resolved Under: ☐ Audit Policy ☐ Small Business Policy

If Resolved Under Small Business Policy, Provide SIC Code: _____

Was Disclosure Referred by Another Region or HQ? ☐ Yes ☐ No

If Yes, What Office? _____

Was Disclosure Part of Compliance Incentive Program? ☐ Yes ☐ No

If Yes, Choose All That Apply

- | | |
|--|--|
| <input type="checkbox"/> Bakers CFC Partnership Program | <input type="checkbox"/> Prisons Program |
| <input type="checkbox"/> CMOM POTW Program | <input type="checkbox"/> Storage Tank Emission Reduction Program |
| <input type="checkbox"/> Colleges & Universities Program | <input type="checkbox"/> Stormwater/Commercial Development Program |
| <input type="checkbox"/> Grain Processing Program | <input type="checkbox"/> Telecommunications Incentive Program |
| <input type="checkbox"/> Industrial Organic Chemical Program | <input type="checkbox"/> Wood Treaters Program |
| <input type="checkbox"/> Lead Disclosure Program | |
| <input type="checkbox"/> National Iron & Steel Incentive Program | |
| <input type="checkbox"/> Oil & Gas Program | |

Number of Facilities Associated With This Disclosure? _____

Any Outstanding Issues? ☐ Yes ☐ No (If yes, please describe): _____

Penalty Information:

Penalty Calculation Before Mitigation: \$ _____

% or Amount of Gravity-Based Penalty Waived: _____% OR \$ _____

Gravity-Based Penalty Assessed: \$ _____

Economic Benefit Assessed: \$ _____

Rationale for Not Applying Disclosure Policy:

- | | |
|--|---|
| <input type="checkbox"/> No Violation Occurred | <input type="checkbox"/> Not a Systematic Discovery |
| <input type="checkbox"/> Discovery Not Voluntary | <input type="checkbox"/> Disclosure Not Prompt |
| <input type="checkbox"/> Entity Had Repeat Violations | <input type="checkbox"/> Agreement or Order Violated |
| <input type="checkbox"/> Violation(s) Not Corrected Expeditiously | <input type="checkbox"/> Discovery & Disclosure Not Independent |
| <input type="checkbox"/> Cooperation Insufficient | <input type="checkbox"/> Actual Serious Harm or Imminent & Substantial Endangerment |
| <input type="checkbox"/> Federal Facility That Would Not Be Liable for a Penalty | |

E. Injunctive Relief/Compliance Actions (Non-SEP Related)

Note: Penalty orders without injunctive relief and Superfund administrative cost recovery agreements SHOULD SKIP THIS SECTION.

20. What action did violator accomplish prior to receipt of settlement/order or will take to return to compliance or meet additional requirements (other than what has already been reported on the Inspection Conclusion Data Sheet (ICDS)). This may be due to settlement/order requirements or otherwise required by statute or regulations (e.g. actions related to an APO which did not specify compliance requirements). Where separate penalty and/or compliance orders are issued in connection with same violation(s), report the following information for only one. Select response(s) from the information on pages 6 through 21.

Explanation for "Annual Amount" field: OECA has conservatively chosen to use one year as the period of time over which a reduction/elimination credit is taken. OECA is requesting that the annual pollutant reduction ONCE the complying action(s) has been fully implemented be reported on this form. Thus, if the pollutant reduction is a continuous action (e.g., implementation of a treatment technology), you would report one year's worth of pollutant removal benefits. For example, if the complying action will include the addition of new treatment technology over several years at a facility, then the pollutant benefit for purposes of completing this form represents the pollutant reduction that occurs over one year once the technology has been put into place. If the pollutant reduction occurs as a one time (or short term) action, then you should report the total pollutant removal benefit.

ALL STATUTES

FACILITY/SITE MANAGEMENT AND INFORMATION PRACTICES (FMIP)

(Actions That Do Not Result in Pollutant Reductions/Eliminations)

Cost: \$ -0- (REQUIRED! Form will be returned if this field is blank!)

- ☐ Testing/Sampling
- ☐ Auditing
- ☐ Labeling
- ☐ Recordkeeping
- ☐ Reporting
- ☐ Information Letter Response
- ☐ Financial Responsibility Requirements
- ☐ Environmental Management Review
- ☐ RI/FS or RD (CERCLA)
- ☐ Site Assessment/Characterization (CERCLA)
- ☐ Provide Site Access (CERCLA)
- ☐ Monitoring
- ☐ UST Release Detection
- ☐ Stormwater Site Inspections
- ☐ Asbestos Inspections
- ☐ Training
- ☐ Planning
- ☐ Permit Application
- ☐ Work Practices
- ☐ Notification (TSCA Section 6)
- ☐ Leak Detection (CAA)
- ☐ Spill Notification
- ☐ Develop/Implement CMOM Program (CWA)
- ☐ Establishment Registered (FIFRA)
- ☐ Establishment Terminated (FIFRA)

Has EPA Taken Previous Formal Enforcement Action Regarding These Violations? (Does Not Include NOV's)

☐ Yes ☒ No

If Yes, Docket Numbers of Previous Actions: _____

TSCA

For instructions and methodologies for calculating information for Direct Environmental Benefits and Preventative Actions, refer to **Chapter 8** of the Case Conclusion Data Sheet Guidance, Dated August 2004.

Actions With **DIRECT** Environmental Benefits and/or **DIRECT** Response/Corrective Action:

Cost: \$ (REQUIRED! Form will be returned if this field is blank!)

TSCA Section 6 (PCBs):

☐ Removal of Contaminated Medium (Choose "Cubic Yards" Below)

☐ Waste Treatment (Choose "Pounds" Below)

<u>Pollutant/Chemical/Waste Stream</u>	<u>Annual Amount</u>	<u>Unit</u> CHECK ONE:	<u>Potentially Impacted Media</u>
1. <u>PCBs</u>	<u> </u>	<input type="checkbox"/> Cubic Yards <input type="checkbox"/> Pounds	<input type="checkbox"/> Soil <input type="checkbox"/> Land

If additional pollutants and corresponding information should be listed, attach info to end of this form.

PREVENTATIVE Actions to Reduce Likelihood of Future Releases:

Cost: \$ 130.00 (REQUIRED! Form will be returned if this field is blank!)

TSCA Section 203 (EPA Regulations - Asbestos in Schools):

- ☐ Develop/Implement Asbestos Management Plan
☐ Asbestos Training, Certification, and Accreditation
☐ Initial Inspection
☐ 3-Year Re-Inspection

<u>Pollutant/Chemical/Waste Stream</u>	<u>Annual Amount</u>	<u>Unit</u>	<u>Potentially Impacted Media</u>
1. <u>Asbestos</u>	<u> </u>	<u>Schools</u>	<u>Schools</u>

TSCA Section 205 (Plan Submission - LEA):

☐ Asbestos Plan Submission

<u>Pollutant/Chemical/Waste Stream</u>	<u>Annual Amount</u>	<u>Unit</u>	<u>Potentially Impacted Media</u>
1. <u>Asbestos</u>	<u> </u>	<u>Schools</u>	<u>Schools</u>

If additional pollutants and corresponding information should be listed, attach info to end of this form. TSCA Preventative Actions Continued:

TSCA Section 206 (Contractor Laboratory Accreditation)

___ Asbestos Training/Certification/Accreditation

<u>Pollutant/Chemical/Waste Stream</u>	<u>Annual Amount</u>	<u>Unit</u>	<u>Potentially Impacted Media</u>
1. <u>Asbestos</u>	_____	<u>Schools</u>	<u>Schools</u>

TSCA Section 402 (Lead-Based Paint Activities, Training and/or Certification)

TSCA Section 406(a) (HUD 1018 Disclosure Rule)

TSCA Section 406(b) (Lead-Based Paint - Pre-Renovation Education Rule)

TSCA Section 409 (Violation of Section 1018):

- ☐ Lead-Based Paint Removal Training/Certification
- ☒ Lead-Based Paint Disclosure
- ☐ Lead-Based Paint Hazard Reduction
- ☐ Lead-Based Paint Testing
- ☐ Lead-Based Paint Removal/Abatement

<u>Pollutant/Chemical/Waste Stream</u>	<u>Annual Amount</u>	<u>Unit</u> CHECK ONE:	<u>Potentially Impacted Media</u>
1. <u>Lead-Based Paint</u>	<u>65</u>	<input type="checkbox"/> Single-Family Housing Units <input checked="" type="checkbox"/> Multi-Family Housing Units	<u>Housing</u>

TSCA Section 6 (PCBs):

___ Disposal Change

<u>Pollutant/Chemical/Waste Stream</u>	<u>Annual Amount</u>	<u>Units</u> CHECK ONE:	<u>Potentially Impacted Media</u>
1. <u>PCBs</u>	_____	<input type="checkbox"/> Pounds <input type="checkbox"/> Cubic Yards	<u>Land</u>

If additional pollutants and corresponding information should be listed, attach info to end of this form.

Note: Question Numbers Correspond with the Case Conclusion Data Sheet Guidance Booklet, Dated August 2004.

If You Have Any Questions, Please Contact Teresa Shirley-Wright at 2-9647 or Priscilla Johnson at 2-9614.